

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 403

Introduced by Senator Machado

February 17, 2005

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~~An act to amend Section 8670.12.2 of the Government Code, An act to add Article 3.5 (commencing with Section 8670.24.1) to Chapter 7.4 of Division 1 of Title 2 of the Government Code, relating to harbors and navigation .~~

LEGISLATIVE COUNSEL'S DIGEST

SB 403, as amended, Machado. ~~Harbors and navigation: tugboat escorts.~~ *Chemical Tanker Task Force.*

*Existing law, the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, establishes the Office of Oil Spill Prevention and Response, which is responsible for the prevention of and response to oil spills in the waters of the state.*

*This bill would require the administrator of the office to convene the Chemical Tanker Task Force, which the bill would create, to gather information and make recommendations regarding chemical tankers carrying hazardous materials that enter, leave, or navigate the waters of the state. The bill would require the administrator to submit to the Legislature on or before July 1, 2007, a report on chemical tankers with information, as specified. The bill would require the administrator to seek funding for the task force's activities from the federal Department of Homeland Security or other funding sources that are not providing funds to the office as of January 1, 2006.*

~~(1) Existing law, the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, requires the administrator for oil spill response to adopt regulations governing tugboat escorts for tank ships and tank barges entering, leaving, or navigating in the harbors of the state, to~~

~~ensure the best achievable protection of the public health and safety and the environment. A knowing violation of a regulation adopted under the act is a crime. The act requires the administrator to establish harbor safety committees for specified harbors of the state.~~

~~This bill would require the administrator, in consultation with those harbor safety committees, to adopt regulations governing tugboat escorts for other vessels, as defined, that are entering, leaving, or navigating in the harbors of the state, and carrying hazardous material, as defined, in a sufficient quantity that a release of the hazardous material into the waters of the state or the atmosphere, as specified, would pose a risk to public health and safety or to the environment. The bill would authorize the administrator to exempt a vessel with a double hull, as defined, if the vessel meets other specified requirements, and to exempt a vessel already subject to specified tugboat escort requirements. This bill would require the administrator to charge the owner or operator of a vessel subject to the regulations a reasonable fee in an amount that does not exceed the administrator's costs for implementing the regulations. Because a knowing violation of the regulations would be a crime, the bill would impose a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1. Section 8670.17.2 of the Government Code is~~
- 2 ~~amended to read:~~
- 3 *SECTION 1. Article 3.5 (commencing with Section*
- 4 *8670.24.1) is added to Chapter 7.4 of Division 1 of Title 2 of the*
- 5 *Government Code, to read:*

Article 3.5. Chemical Tanker Task Force

8670.24.1. The Legislature finds and declares all of the following:

(a) Currently, tanker ships carrying hazardous materials, such as poisonous gas, flammable liquids, radioactive materials, explosives, and other dangerous chemicals, are not regulated by the Office of Oil Spill Prevention and Response.

(b) According to the San Francisco Marine Exchange, the number of chemical tankers entering San Francisco Bay has nearly tripled to 171 in 2003.

(c) Over the past nine years, U.S. Coast Guard statistics indicate that there have been at least 23 accidents involving chemical tankers in the San Francisco Bay.

(d) Enhancement of security strategies that take into account the efficient movement of goods while safeguarding the state requires a coordinated approach.

(e) Currently there is no state agency monitoring the movement of hazardous materials via waters of the state.

8670.24.2. Unless the context otherwise requires, for the purposes of this article, the following terms have the following meanings:

(a) “Chemical tanker” means a vessel carrying hazardous materials.

(b) “Hazardous materials” has the meaning set forth in subdivision (o) of Section 25501 of the Health and Safety Code.

(c) “Waters of the state” means “coastal waters” as that term is defined in paragraph (1) of subdivision (a) of Section 13181 of the Water Code.

8670.24.3. The Chemical Tanker Task Force is hereby created in state government to gather information and to make recommendations regarding chemical tankers entering, leaving, or navigating in the waters of the state that are carrying hazardous materials in a sufficient quantity that a release from the chemical tanker into the environment would pose a risk to public health and safety or the environment.

8670.24.4. (a) The administrator shall convene the task force, which shall consist of representatives from the Office of Oil Spill Prevention and Response Technical Advisory Committee, the Harbor Safety Committee, the State Lands

1 *Commission, the Department of Toxic Substances Control, the*  
2 *Office of Emergency Response, the Office of Homeland Security,*  
3 *and any other state agency that the administrator determines to*  
4 *be appropriate.*

5 *(b) The administrator shall request the United States Coast*  
6 *Guard to participate as a member of the task force.*

7 *8670.24.5. The task force shall do both of the following:*

8 *(a) Consult with or invite the participation of other relevant*  
9 *federal, state and local agencies, as well as nonprofit agencies*  
10 *and industry.*

11 *(b) Establish a process for receiving comments from the public*  
12 *on matters to be considered by the task force.*

13 *8670.24.6. Meetings and deliberations of the task force shall*  
14 *comply with the Bagley-Keene Open Meeting Act (Article 9*  
15 *(commencing with Section 11120) of Chapter 1 of Part 1 of*  
16 *Division 3).*

17 *8670.24.7. On or before July 1, 2007, the administrator shall*  
18 *submit to the Legislature a report on chemical tankers, based on*  
19 *information gathered by the task force, that includes all of the*  
20 *following:*

21 *(a) A summary of all federal, state, local, and international*  
22 *statutes and regulations related to chemical tankers; reporting*  
23 *procedures for chemical tanker spills and accidents; mechanisms*  
24 *for chemical tanker management; chemical tanker spill and*  
25 *accident prevention and response plans; and plans to safeguard*  
26 *chemical tankers in state waters, harbors, and ports from*  
27 *terrorist attacks.*

28 *(b) An inventory of the types of chemical tankers, the number*  
29 *and names of chemical tankers in the waters of the state, the*  
30 *movement of chemical tankers, the size and cargo capacity of the*  
31 *chemical tankers, and the hull design of the chemical tankers.*

32 *(c) The volumes of hazardous materials transported, purposes*  
33 *of the transportation, and the ports of destination and departure*  
34 *of the hazardous materials.*

35 *(d) A summary of marine casualties, collisions, accidents,*  
36 *near misses, and potential risks of collision or accident in the*  
37 *waters of the state involving chemical tankers. The summary*  
38 *shall include both of the following:*

39 *(1) A review of at least 10 years worth of full incident and*  
40 *marine casualty reports.*

1     (2) *A summary of existing and projected increases in vessel*  
2 *traffic of all types in the waters of the state and how this may*  
3 *impact the potential risk of collisions or accidents involving*  
4 *chemical tankers.*

5     (e) *An analysis of the benefits and costs of requiring the use of*  
6 *tug escorts for chemical tankers in the waters of the state.*

7     (f) *Any other information or recommendations from the task*  
8 *force relevant to the prevention of and response to chemical*  
9 *tanker spills and accidents.*

10    (g) *Recommendations for protecting, preventing, and*  
11 *responding to spills and accidents from chemical tankers that are*  
12 *entering, leaving, or navigating in the waters of the state and are*  
13 *carrying hazardous material in a sufficient quantity that a*  
14 *release of the hazardous material into the waters of the state or*  
15 *the atmosphere, as a result of a chemical tanker collision, a*  
16 *chemical tanker running aground, a terrorist attack, or other*  
17 *criminal act would pose a risk to public health and safety, port*  
18 *security, or to the environment.*

19     8670.24.8. *The administrator shall seek funding for activities*  
20 *of the task force from the federal Department of Homeland*  
21 *Security or other funding sources that are not providing funds to*  
22 *the Office of Oil Spill Prevention and Response as of January 1,*  
23 *2006.*

24     ~~8670.17.2. (a) The administrator shall adopt regulations~~  
25 ~~governing tugboat escorts for tank ships and tank barges~~  
26 ~~entering, leaving, or navigating in the harbors of the state. The~~  
27 ~~regulations shall be adopted, and thereafter periodically revised,~~  
28 ~~to ensure the best achievable protection of the public health and~~  
29 ~~safety and the environment.~~

30     ~~(b) (1) The administrator, in consultation with the harbor~~  
31 ~~safety committees established pursuant to Section 8670.23, shall~~  
32 ~~adopt regulations governing tugboat escorts for other vessels that~~  
33 ~~are entering, leaving, or navigating in the harbors of the state,~~  
34 ~~and are carrying hazardous material in a sufficient quantity that a~~  
35 ~~release of the hazardous material into the waters of the state or~~  
36 ~~the atmosphere, as a result of a vessel collision, a vessel running~~  
37 ~~aground, or a terrorist or other criminal act, would pose a risk to~~  
38 ~~public health and safety, or to the environment.~~

39     ~~(2) The administrator may exempt both of the following from~~  
40 ~~the regulations adopted pursuant to paragraph (1):~~

~~(A) A vessel with a double hull that has fully redundant steering and propulsion systems and an integrated navigation system.~~

~~(B) A vessel already subject to tugboat escort requirements pursuant to existing United States Coast Guard regulations and requirements.~~

~~(3) The administrator shall charge the owner or operator of a vessel that is subject to the regulations adopted under paragraph (1) a reasonable fee in an amount that does not exceed the administrator's costs for implementing the regulations.~~

~~(4) Funds deposited in the Oil Spill Prevention and Administration Fund from the fee imposed pursuant to Section 8670.40 shall not be used to support or implement this subdivision.~~

~~(5) As used in this subdivision, the following terms have the following meanings:~~

~~(A) "Double hull" has the meaning set forth in Section 157.03 of Title 33 of the Code of Federal Regulations.~~

~~(B) "Hazardous material" is defined as anhydrous ammonia and ammonium nitrate. The administrator may consult with the Department of Toxic Substances Control to determine whether other explosive material, poisonous material, or poisonous gas listed in Section 66261.111 of Title 22 of the California Code of Regulations, is also a hazardous material for purposes of regulations adopted under paragraph (1).~~

~~(c) The regulations adopted pursuant to subdivision (a) shall include, but not be limited to, a determination of the circumstances under which tank ships and tank barges are required to be accompanied by a tugboat or tugboats of sufficient size, horsepower, and pull capability while entering, leaving, or navigating in the harbors of the state. In making that determination, the administrator shall be guided by the recommendations of the harbor safety committees established pursuant to Section 8670.23.~~

~~(d) The administrator may adopt regulations pursuant to subdivision (a) that differ from the recommendations of the harbor safety committees only after a public hearing. If the administrator proposes to adopt regulations that require the use of tugboat escorts in fewer instances in the harbors of San Francisco, San Pablo, and Suisun Bays than that which is~~

1 recommended by the Harbor Safety Committee for San  
2 Francisco, San Pablo, and Suisun Bays, the administrator shall, in  
3 a public hearing, adopt findings, based on substantial evidence,  
4 that the proposed regulations provide adequate protection and are  
5 consistent with the purposes of this chapter.

6 (e) A public hearing held in accordance with Section 11346.8  
7 satisfies the public hearing requirement of subdivision (d).

8 (f) The Legislature hereby finds and declares that the  
9 appropriate use of tugboat escorts can improve vessel safety,  
10 particularly in the harbors of San Francisco, San Pablo, and  
11 Suisun Bays, and that the regulations concerning tugboat escorts  
12 in those harbors shall be adopted as quickly as practicable and  
13 may be adopted before the adoption of all other regulations  
14 required by this section.

15 SEC. 2. No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution because  
17 the only costs that may be incurred by a local agency or school  
18 district will be incurred because this act creates a new crime or  
19 infraction, eliminates a crime or infraction, or changes the  
20 penalty for a crime or infraction, within the meaning of Section  
21 17556 of the Government Code, or changes the definition of a  
22 crime within the meaning of Section 6 of Article XIII B of the  
23 California Constitution.